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DUTY OF THE STATE TO ITS HISTORY.

BY JACOB PIATT DUNN.

[A paper read before the Indiana Historical Society and the Civic Improvement Committee of the Commercial Club of Indianapolis, December 9, 1910.]

TACITUS said, "This I hold to be the chief office of history, to rescue virtuous actions from the oblivion to which a want of records would consign them, and that men should feel a dread of being considered infamous in the opinions of posterity from their depraved expressions and base actions."

Tacitus lived in a day of absolute monarchy, when the all-important thing for good government was to have a good ruler, and a king or an emperor who was reasonably decent was hailed as a blessing to the commonwealth. It was indeed desirable that the ruler should be inspired by the belief that his good deeds would be recorded, and praised by future generations, and that his evil deeds would be held in execration. In reality, the expression of Tacitus is equivalent to a declaration that the chief use of history is to promote good government, which was true at his time, and is equally true now, but in a different way. We have passed, to a large extent, from the era of monarchical rule, and have come to a period when the people make such provision for their own rule as they deem desirable. Of necessity, this course is largely experimental. Many measures are tried that are failures, and many produce results that are not anticipated. Now, history in our times is the record of progress in civilization and government. It is the record of the experience of the state, and a state should profit by its experience just as an individual does. But there is this difference: An individual carries the memory of his experience with him, while the governing powers of a state are frequently changed, and the experience of one genera-

tion is lost to following ones, unless it be recorded in some permanent way.

This use of history, especially in this country of ours, I take to be the chief use, but it by no means excludes other uses. Even the use regarded as most important by Tacitus still remains. It is important that our officials should understand that their acts will be recorded, both the good and the bad, and that they will go down to posterity with the records they have made; for good rulers and bad rulers are still efficient to promote or retard the welfare of the public, although they are elected as public servants, and for comparatively short terms. It is also important that each rising generation should know what its predecessors did, in order to hand down the goodly heritage of civilization and government that comes to their hands. It is important that each generation should realize that it is but—

“A link among the years to knit
The generations each to each.”

It is important that each generation should know of the steps by which their ancestors developed the arts and sciences and industries which have become a part of their daily lives and the means of their livelihood. But principally, at present, I would call your attention to the governmental uses of history, for therein the duty of the state is most obvious and most convincing.

It is most singular how fully the average official feels the importance of preserving his own official record, and how little he feels it as to the records of others. I venture the assertion that no one here ever knew an executive official who did not feel that his own reports should be published and carefully preserved; no one here ever knew a member of a legislative body who did not feel that the record of that body ought to be published and preserved. And yet, when it came to the application of the Golden Rule as to the records of others, how different the feeling. The Legislature of Indiana very early provided for the circulation of the laws and the legislative journals, and it contemplated their preservation. When the township library system was instituted it provided for copies for each library, but subsequent Legislatures let the township libraries die, and

the county officials, as a rule, took no care of the copies sent to the counties. As a result of this, when the historical revival began in this State, some twenty-five years ago, the State itself did not own complete sets of its own laws, or House, Senate and Documentary Journals.

Judge D. W. Howe was the pioneer in the work of rehabilitation. His attention was first called to the laws, and he aided in preparing the republication, in 1886, of the territorial laws from 1801 to 1806, including the laws of the Governor and Judges and of the first and second sessions of the Territorial Legislature. At that time the only known printed copy of the laws of the Governor and Judges was owned by Hon. John Stotsenburg, of New Albany, and the only known copy of the laws of the second session of the Legislature was owned by the Massachusetts State Library. In the same year the Indiana Historical Society was revived and reorganized, and Judge Howe's "Laws and Courts of the Northwest and Indiana Territories" was its first publication. He next turned his attention to the Senate, House and Documentary Journals, and in 1890 published his invaluable "Descriptive Catalogue of the Official Publications of the Territory and State of Indiana," which first gave the public a reliable list of these publications. When Mrs. Scott was State Librarian, the writer made a special effort to fill the sets of these publications, and went to the county seats of thirty-eight counties in the attempt to get full sets of the Senate, House and Documentary Journals for the State Library, the City Library and the Indiana Historical Society. The Documentary Journals, which began in 1835, were secured, but some of the early Senate and House Journals are still lacking. But the effort to build up the State Library as a local historical library has been kept up ever since, especially under Mr. Henry and Professor Brown; and we now have a very creditable collection of local historical material.

But to return to documents. The city of Indianapolis has been publishing its Council Proceedings since 1863, and yet it was only by extended effort that I succeeded in making up a set of them for the State Library, and all but one for the City Library. When Mr. George Merrill removed to California, his copy of the missing volume was given to the City Library, and its set was made full.

One of the most potent causes of this disappearance of documents is the lack of a place to keep them. You would suppose there was room in our court-house, and there is, with proper care; but a large part of the original records of this county are bundled into what is called "the bum room," in hopeless confusion, and so covered with soot and dust that it takes a bold man to look for anything. When John R. Wilson was clerk he got some shelving put in, and put them in order, but since then they have again fallen into a disgraceful state. The usual condition in the court-houses of the State is as bad or worse. You would think there would be room in our State House, but it is very much overcrowded, and there are quantities of original papers piled in the basement in hopeless confusion; while the State Library is badly crowded, after utilizing all available space, and especially in its storage facilities. In fact, this has been the case as to the latter for a number of years past. When I was State Librarian I was also engaged in an effort to revive the township libraries. When they were started, provision was made for supplying each of them with the laws and journals. After they had gone to pieces the same number of documents continued to be printed, but everybody had forgotten what they were for, and the most of them usually went for waste paper. I decided to keep them for the township libraries when they should be restored, and had them boxed and stored in the basement. In the course of years they filled the room, and imagine my astonishment on learning that State Librarian Henry had got a law passed authorizing him to retain one hundred copies of each and dispose of the rest, and the great mass of them had gone to the paper mills. In passing, I would mention that the chief cause of the destruction of the township libraries was the lack of places to keep them. They were simply put in custody of the township trustee, and he put them in his cellar or his barn or anywhere else that was convenient, and, as a rule, they received about as much care as would be given to an orphan apprentice. This is one part of our history that we are now profiting by, and the libraries that have been started in the last dozen years are supplied with permanent and usually adequate buildings, at least for the time being.

Fortunately, we are arriving at a period in this country when there is some appreciation of the importance of profiting by experience in

legislation, and history is simply the record of experience—or the truth of experience unrecorded. As Carlyle puts it, "History is the wisdom of events." There is no more notable example of profiting by experience than the Common Law, for it is in fact a crystallization of experience—of customs developed by experience, and gradually added to by judges, without the delay of law-making, as new cases arose that called for the development of existing principles. It is true that the reasons of some of its rules have almost been lost in the haze of antiquity, and the reasons for some of them may have wholly disappeared in the changes of a developing civilization, but it is safe to assume that all of them were based on sound reason at the time of their adoption, and that the reason was founded in experience. But of statutory law there is a vast amount that is founded on neither experience nor reason; and there is no valid excuse for it. In this country the several States are so similar that the experience of one is practically the experience of all, and yet there have been numerous examples of foolish laws enacted in one State, tried and found failures; and then the same laws enacted in other States, with the same results, and sometimes actually re-enacted in the same State. Fourteen years ago, at the supper for the American Economic Association, in this building, I urged the importance of a more careful study of comparative legislation, especially in preparation for economic measures; and the most encouraging feature of legislative work to-day is the movement in that direction. New York led off with the compilation and publication of a digest of the current legislation of all the States; and this has been followed by the institution of legislative reference departments in a number of the State libraries, whose special function is to supply legislators with all sorts of information concerning desired measures. Young as it is, I believe it is safe to say that the most important branch of legislative work in this country to-day is this legislative reference work. It is preventing more hasty and ill-advised legislation than any one agency I know of, by furnishing legislators with the available records of experience and the best thought on various subjects.

There is, however, one weak spot in it. However competent a reference librarian may be, he can not know everything; and when entirely new legislation comes up he usually lacks material for it, be-

cause the real material is in a broader field of history than he deals with. The English are in a much better condition as to new legislation than we are, because, as an incident of cabinet government, whenever the administration desires to introduce a reform measure, it appoints a commission to study and investigate the question, and to learn, if possible, the real causes of the evil desired to be remedied. And in this it does not, as is usually done in this country, appoint a commission of partisans whose minds are made up to begin with, and who devote their efforts to bolstering up their preconceived ideas. It appoints men of differing views, who take evidence on all sides and try to get at the actual facts. The results of this are almost startling. I know of no more useful book on legislation than Richardson's "The Health of Nations," which is practically a summarization of the life and writings of Edwin Chadwick—the man who served on more of these British commissions than any other man, and who attained a reputation for legislative wisdom without precedent. In regard to this commission work, Mr. Chadwick makes the astounding statement (p. 127) that he never knew any one investigation "which did not reverse every main principle, and almost every assumed chief elementary fact, on which the general public, parliamentary committees, politicians of high position, and often the commissioners themselves, were prepared to base legislation."

This seems almost incredible, but the reason of it is simple when you reflect on it. For any evil there is usually suggested to most men some simple and seeming obvious remedy; but when you come to a chronic evil it is practically certain that there is no simple and obvious remedy for it, because if there were it would have been applied long ago. Such evils are like diseases of the blood, which the ignorant seek to cure by applying salves and lotions to the skin, but which still remain till wise men seek out the causes of the disease and devise the "606" that cures them by removing the causes.

Now, what was it that these English commissions learned by their investigations? Simply the facts—the actual experience of the public—the history of the evil. It is just like a physician diagnosing a case, in which he acquaints himself with the personal history of his patient for a greater or less period, in order to account for the symptoms then presenting themselves. If you want intelligent legisla-

tion you must first find out just what is wrong, and then devise the remedy for that wrong.

In conclusion, we come back to the axiomatic principle—or principle which should be axiomatic—that a state that does not profit by its own experience is as foolish as an individual who does not profit by his own experience; and a state can not possibly profit fully by its experience unless it provides for handing it down from one generation to another by the preservation of its history.